



# Department of Justice

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AT  
(202) 616-2771  
TDD (202) 514-1888

## INTERNATIONAL ENFORCEMENT TO BE BOOSTED BY NEW AGREEMENT WITH AUSTRALIA

### **First-Ever Antitrust Mutual Assistance Agreement Under New Law**

WASHINGTON, D.C. -- Acting for the first time under a 1994 statute designed to strengthen international antitrust enforcement, the United States today reached a proposed agreement with Australia to exchange evidence and assist each other's antitrust investigative efforts, announced Attorney General Janet Reno and Federal Trade Commission Chairman Robert Pitofsky.

Under the agreement, the countries would exchange evidence on a reciprocal basis for use in antitrust enforcement, and assist each other in obtaining evidence located in the other's country, while assuring that confidential information be protected.

If finalized, the agreement would be the first agreement signed under the International Antitrust Enforcement Assistance Act of 1994.

"This agreement is a significant step in improving antitrust enforcement in today's global economy," said Attorney General Janet Reno. "In antitrust, as in so many other areas of law enforcement, bilateral mutual assistance agreements play a

crucial role in protecting U.S. citizens and enforcing U.S. laws."

In mid-1994, the Justice Department asked Congress to enact the International Antitrust Enforcement Assistance Act in order to improve the United States' ability to obtain foreign-located evidence in antitrust matters. Congress responded quickly, on a bipartisan basis, and President Clinton signed the Act into law in late 1994.

The proposed agreement builds on a U.S.-Australia antitrust cooperation agreement signed in 1982, and on a close relationship that has developed over the years between the Department and the Federal Trade Commission, and the Australian Competition & Consumer Commission.

"Going after international cartels is high on the Antitrust Division's agenda," said Joel I. Klein, Acting Assistant Attorney General in charge of the Department's Antitrust Division. "In some instances, our ability to prosecute illegal cartel behavior has been thwarted because we lacked mutual assistance agreements with other countries.

"This new agreement will greatly assist the Antitrust Division's law enforcement activities, and we look forward to strengthening our partnership with the Australian authorities in the fight against international cartels and other anticompetitive conduct," Klein added.

Highlights of the proposed agreement include:

-- The U.S. and Australia undertake "to assist one another and to cooperate on a reciprocal basis in providing or obtaining antitrust" evidence, through a wide variety of means, pursuant to

their respective mutual assistance legislation, and regardless of whether the conduct underlying a request would violate the laws of the requested party. The agreement provides for assistance in both civil and criminal antitrust matters.

-- Evidence obtained under the proposed agreement would be used only for antitrust enforcement purposes, except in certain narrow circumstances consistent with the Act. Before turning over evidence, a party must determine if executing the request would be consistent with its public interest. The agreement also provides that nothing in it "compels a person to provide antitrust evidence in violation of any legally applicable right or privilege."

-- All Australian requests for assistance will be channelled through the Department, as required by the Act. However, requests may be executed by either the Department or the FTC (or both), as appropriate. Both the Department and the FTC may make requests for assistance directly to the Australian Competition and Consumer Commission (ACCC), and U.S. requests will be executed by the ACCC, the Attorney General's Department, or both, as appropriate.

-- Reflecting Congress' concern with maintaining the confidentiality of sensitive business information that might be exchanged pursuant to the Act, the agreement contains strict confidentiality requirements that will protect such information.

Klein said that today's agreement will serve as a model for similar bilateral agreements with major trading partners around the world in order to deal effectively with anticompetitive behavior that occurs on an international scale.

The agreement shows that the U.S. is committed to two-way cooperation with foreign counterparts, which is in the interest of American consumers and theirs, Klein added.

The International Antitrust Enforcement Assistance Act requires that the Department publish the proposed agreement in the Federal Register and request public comment in writing during a 45-day period. During that time, the Australian government will send the proposed agreement to the Australian States and

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Territories for their comments. At the conclusion of those two processes, the U.S. and Australia will determine whether to enter into the agreement as published.

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